

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BROOKE LAYTON, individually	§	
and on behalf of all others similarly	§	CIVIL ACTION NO. 3:21-cv-01636-N
situated,	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
MAINSTAGE MANAGEMENT, INC.,	§	COLLECTIVE ACTION
NICK’S MAINSTAGE, INC. - DALLAS	§	JURY TRIAL DEMANDED
PT’S d/b/a PT’S MENS CLUB and	§	
NICK MEHMETI,	§	
	§	
Defendants.	§	

DEFENDANTS’ MOTION TO DISMISS FOR WANT OF PROSECUTION

MAINSTAGE MANAGEMENT, INC., NICK’S MAINSTAGE, INC. - DALLAS PT’S d/b/a PT’S MENS CLUB, and NICK MEHMETI, (“Defendants”) present this, their Motion to Dismiss for Want of Prosecution:

Pursuant to Local Rules, the parties were to exchange exhibit lists, witness lists and deposition excerpts no less than 14 days before trial, which is set for May 22, 2023. District courts may dismiss an action for failure to prosecute or comply with an order of the court. *Nguyen v. SFM, LLC*, Civil Action No. 4:19-cv-00722 (E.D. Tex. Nov. 2, 2020) (citing *McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988)). Defendants filed their required pretrial items, excepting only the pretrial order. *See* ECF No.’s 98-102. Plaintiffs Brook Layton and Ashlynn Shipley did not. Request is made that the trial court take judicial notice of the docket. Based upon the failure to adhere to the deadlines, as

well as the pattern regarding the same throughout the course of litigation, Defendants request that Plaintiffs case be dismissed with prejudice for want of prosecution.

WHEREFORE PREMISES CONSIDERED, Defendants move that Plaintiffs' claims be dismissed for want of prosecution and for such other and further relief at law and in equity to which Defendants may show themselves justly entitled.

Respectfully Submitted,

SHEILS WINNUBST
A Professional Corporation

By: /s/ Latrice E. Andrews
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AND

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that on May 10, 2023, I electronically submitted the foregoing Defendants' Exhibit List with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel and parties of record electronically or by another means authorized through Federal Rule of Civil Procedure 5(b)(2) and Local Rule 7.2.

/s/ Latrice E. Andrews
Latrice E. Andrews